

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DANBURY CELLULAR TELEPHONE CO., A	)	
CONNECTICUT CORPORATION D/B/A CELLULAR	)	
ONE/UNITED BLUEGRASS CELLULAR CORP., AND	)	
HORIZON CELLULAR TELEPHONE COMPANY OF	)	CASE NO.
CENTRAL KENTUCKY, L.P., A DELAWARE	)	93-048
LIMITED PARTNERSHIP, FOR APPROVAL OF THE	)	
TRANSFER OF THE ASSETS AND LIABILITIES OF	)	
DANBURY CELLULAR TELEPHONE CO. TO HORIZON	)	
CELLULAR TELEPHONE COMPANY OF CENTRAL	)	
KENTUCKY, L.P., AND RELATED FINANCING	)	

O R D E R

On April 23, 1993, Vivian E. Warner, an intervenor, filed a petition seeking reconsideration and clarification of the Commission's April 6, 1993 Order approving the transfer of assets and liabilities of Danbury Cellular Telephone Co. ("Danbury") to Horizon Cellular Telephone Company of Central Kentucky, L.P. ("Horizon"). Specifically, the petition seeks reconsideration of the decision by the Commission's hearing officer denying Ms. Warner's request to continue the March 25, 1993 hearing to provide an opportunity to depose three out of state individuals, and to clarify that, contrary to the finding in the Commission's April 6, 1993 Order, Danbury does not charge uniform rates in the three rural service areas in which it holds certificates to operate.

On May 3, 1993, Horizon and Danbury filed individual responses objecting to the petition. The responses state that the petitioner, having failed to exercise due diligence in obtaining the testimony of the out of state individuals, was not entitled to

a continuance of the hearing. The responses further state that Danbury's rates for wholesale cellular transactions, which are required to be set forth in Commission filed tariffs, are uniform throughout its three service areas as found by the Commission's April 6, 1993 Order; whereas its rates for retail end-users, which are not required to be set forth in Commission filed tariffs, are not uniform throughout its service areas.

Based on the petition and the response, and being sufficiently advised, the Commission hereby finds that Ms. Warner has failed to demonstrate, by a proffer of evidence or otherwise, that the taking of depositions would produce evidence that: 1) Horizon lacks the requisite qualifications set forth in KRS 278.020, i.e. the financial, managerial, and technical expertise necessary to own and operate a cellular telecommunications utility; 2) the transfer by Danbury to Horizon is for other than a proper purpose and consistent with the public interest; or 3) the proposed financing is not in accord with the requirements set forth in KRS 278.300. The record in this case includes substantial evidence presented by Horizon in support of its qualifications and the details of the proposed transfer and financing. Although Ms. Warner was provided an opportunity to cross-examine Horizon's evidence, that evidence has not been challenged or contradicted. In fact, the petition does not even allege that Horizon has not satisfied the aforementioned statutory requirements.

The Commission further finds that cellular utilities are required to file tariffs setting forth only rates for wholesale

service. The rates currently on file by Danbury, which are to be adopted by Horizon, are uniform throughout the three service areas involved in this proceeding. Rates charged to retail customers for cellular utility service are not required to be set forth in Commission filed tariffs and may be adjusted as needed to meet market conditions.

IT IS THEREFORE ORDERED that the petition for reconsideration and clarification be and it hereby is denied.

Done at Frankfort, Kentucky, this 11th day of May, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:



Executive Director